

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No. : **09/827,473**
Filed : April 6, 2001
Applicant : Joseph Allen Carroll and Robert L. Mitchell
Title : Clip-Mounted Catalyst Device

TC/AU : 1764
Examiner : T.P. Duong

Docket No. : 10782-0010
Customer No. : 29052

SECOND DECLARATION UNDER 37 CFR 1.132

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Robert L. Mitchell, hereby declare that:

1. I am a co-inventor of the above-identified patent application (the "Patent Application"). I also am Chief Executive Officer of Applied Ceramics Inc., which owns rights in the Patent Application. Applied Ceramics Inc. develops and manufactures custom ceramic honeycombs and precious metal catalysts, among other products. I have over 24 years experience working in the field of designing ceramic substrate-based catalysts and associated devices for installing these catalysts in various commercial and industrial products.

2. My work in connection with this invention began as an effort to solve the problem of how to protect a fragile ceramic catalyst during its installation in an oven vent, while providing a means to quickly, easily, and securely mount the catalyst within the oven vent, without the need for mounting screws.

3. It is my understanding that the Patent Examiner has rejected Claims 1-5, 8-20, and 23-28, including independent claims 1, 24, and 25, of the Patent Application, as being unpatentable in view of the teachings of U.S. Patent 3,785,778 to Burstein et al. (hereinafter "Burstein") in combination with the teachings of German Patent Publication DE 019912453 A1 to Mlotek et al. (hereinafter "Mlotek"), for the reasons described in the Office Action mailed November 4, 2005. I have reviewed the Office Action and the Burstein and Mlotek patents, as well as the claims as now amended.

4. I disagree with the Examiner's rationale and conclusions regarding what one of ordinary skill in the art would have understood from the teachings of Burstein and Mlotek. I do not believe that these two patents would in any way have led one of ordinary skill in the art to derive the invention described and claimed in the Patent Application. A person having ordinary skill at the time of the invention would not have considered taking the device disclosed in Burstein, looking to the teachings of Mlotek, and then modifying the Burstein device based on the disclosure of Mlotek in such a way to derive the mounting ring of the presently claimed catalytic converter devices.

5. In the first instance, there would be no reason to combine the teachings of these two references together, because there would be no reason to adapt the features for connecting the Mlotek device to an oven vent together with the Burstein pot assembly. To do so would require undesirable and complicating modifications to the chamber in Burstein. For example, modifying the Burstein device to include the Mlotek assembly flaps 69 would also require one to modify the Burstein device to include corresponding assembly recesses 67 into which the

assembly flaps could be inserted. That is, the pot of Burstein, which the Examiner appears to believe equivalent to the mounting ring in the Patent Application, would be inoperable with the chamber without such complicating modifications to the chamber. One would not want to have to change the design of the chamber as well as that of the pot. Accordingly, one of ordinary skill in the art would be highly unmotivated to combine Mlotek with Burstein.

6. Burstein and Mlotek also fail to suggest that one could or should make a catalytic converter device that includes *first and second retaining tabs* extending from the body over edge portions of the first and second surfaces, respectively, to secure a catalyst-coated substrate or screen within a vent opening. Nothing in Burstein or Mlotek would have led one of ordinary skill in the art at the time of our invention to derive the particular device defined by claim 25 of the Patent Application.

7. Furthermore, Mlotek teaches that the assembly flaps alone are insufficient to secure the filter cover 59 to the cover wall 41, because complete assembly of the Mlotek device involves (1) preassembly by engaging the assembly flaps of the filter cover with the contact surfaces 71 on the cover wall and (2) final assembly by screwing the filter cover to the ventilator base plate 47. Thus, from the point of view of the ordinary artisan at the time of the invention viewing Mlotek, there would be no advantage gained in adding assembly flaps if one still would need to use screws too.

8. I declare that all statements made herein of my own knowledge and belief are true and that all statements made on information and belief are believed to be true, and further that the statements are made with the knowledge that willful false statements are punishable by fine

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or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

4/25/06

Date

Robert L. Mitchell

Robert L. Mitchell